

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

1 GRETCHEN SAND,

2 Plaintiff,

3 vs.

4 SPECIALTY MERCHANDISE
5 CORP.,

6 Defendant.

7 } No. CV-11-5094-LRS
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9 } **ORDER OF DISMISSAL**
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The *pro se* Plaintiff has been allowed to file her Complaint *in forma pauperis* subject to review by the undersigned for legal sufficiency. (ECF No. 5).

It is not apparent there is federal subject matter jurisdiction to adjudicate the asserted dispute. For federal question jurisdiction to exist, Plaintiff's action must arise under the Constitution, laws, or treaties of the United States. 28 U.S.C. Section 1331. Plaintiff cites a non-existent federal statute, 28 U.S.C. Section 370, which is followed by a “?.” Assuming this to be a common law fraud action, diversity jurisdiction would exist only if Plaintiff and Defendant are residents of different states and the amount in dispute exceeds the sum or value of \$75,000.00. 28 U.S.C. Section 1332. It appears from the exhibit appended to Plaintiff's Complaint that the amount in controversy is \$39.95.

Accordingly, this action is *sua sponte* **DISMISSED** with prejudice pursuant to 28 U.S.C. Section 1915e(2)(B)(ii) and (iii) for lack of federal subject matter jurisdiction. Plaintiff retains the right to file a Consumer Complaint with the

1 Consumer Protection Division of the Washington Attorney General's Office at
2 www.atg.wa.gov/safeguardingconsumers.aspx and if thereafter necessary, file a
3 complaint in the Small Claims Division of the Benton County District Court which
4 handles claims up to \$5,000.00 and in which the parties are generally required to
5 proceed *pro se* without the assistance of attorneys. RCW Chapter 12.40.010 *et*
6 *seq.*.

7 **IT IS SO ORDERED.** The District Executive shall enter judgment
8 accordingly and forward copies of the judgment and this order to Plaintiff. The
9 file shall be **CLOSED**.

10 **DATED** this 14th of June, 2011.

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12 *s/Lonny R. Suko*

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14 LONNY R. SUKO
United States District Judge